IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1588 OF 2007

John D'Souza ....Petitioner
V/s
Bombay Mun. Corpn. & Ors..... ....Respondents.

Mr.Dinesh C. Shah, Adv. For the petitioner.

Mr.R.A.Malandkar, Adv. For respondent No.1.

CORAM: A.P.DESHPANDE, J.
27/8/07

PC:

An order dated 23.6.07 passed by the City Civil Court, Bombay dismissing a contempt notice of motion is challenged by filing the present writ petition. The notice of motion is taken out by the plaintiff, inter alia, claiming that the respondent-municipal corporation has breached an order passed by the Court dated 11.4.05 and hence a prayer was made to take action against the respondents under Order 39 Rule 2A of the Code of Civil Procedure. On facts the City Civil Court has held that the structure was already demolished before institution of suit and hence did not take action under Order 39 Rule 2A. On the basis of material and evidence on record finding is reached that the structure was demolished on 6.10.04 whereas the ex-parte order restraining the respondent not to demolish the structure was passed on 11.4.05. On the very next date counsel for the respondent had brought to the notice of the trial Court the fact that the structure was already demolished and on wrong premise impugned order was obtained. Being convinced that there has been no breach of the order the motion has been dismissed. Perused the order. Same does not call for interference. Hence writ petition is summarily dismissed. Civil Application No.509/07 does not survive.